

## R477-7 Leave

### R477-7. Leave.

#### R477-7-1. Conditions of Leave.

- (1) An employee who normally works 40 hours or more per pay period, except those identified as career service exempt in Section R477-4-10, is eligible for leave benefits. An employee receives leave benefits in proportion to the time paid.
  - (a) An eligible employee who normally works 40 or more hours per pay period shall accrue annual and sick leave in proportion to the time paid.
  - (b) An employee shall use leave in no less than quarter hour increments.
- (2) A seasonal, temporary, or part-time employee working less than 40 hours per pay period is not eligible for paid leave.
- (3) Accrual rates for sick, holiday and annual leave are determined on the Annual, Sick and Holiday Leave Accrual table available through DHRM.
- (4) An employee may not use annual, sick, converted sick, compensatory, excess or holiday leave before accrued.
- (5) An employee may not use compensatory, annual, converted sick leave used as annual, or excess leave without advance approval by management.
- (6) An employee transferring from one agency to another is entitled to transfer all accrued annual, sick, and converted sick leave to the new agency.
- (7) An employee on paid leave shall continue to accrue annual, holiday and sick leave.
- (8) An employee separating from state service shall be paid in a lump sum for all annual leave and excess hours. An FLSA nonexempt employee shall also be paid in a lump sum for all compensatory hours.
  - (a)
    - (i) An employee separating from state service for reasons other than retirement shall be paid in a lump sum for all converted sick leave.
    - (ii) Converted sick leave for a retiring employee shall be subject to Section R477-7-5.
  - (b) An employee may transfer this payout, minus all nondeferred taxes, to a 401(k) or 457 account up to the amount allowed by IRS regulation.
  - (c) No leave on leave may accrue or be paid on the cashed out leave.
  - (d) Leave cannot be used or accrued after the last day worked, except for

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FMLA or other medical reasons, or administrative leave specifically approved by management to be used after the last day worked.

- (9) Contributions to benefits may not be paid on cashed out leave, other than FICA tax, except as it applies to converted sick leave in Section R477-7-5(2) and the Retirement Benefit in Section R477-7-6.

### R477-7-2. Holiday Leave.

- (1) The following dates are designated legal holidays:
- (a) New Year's Day -- January 1
  - (b) Dr. Martin Luther King, Jr. Day -- third Monday of January
  - (c) Washington and Lincoln Day -- third Monday of February
  - (d) Memorial Day -- last Monday of May
  - (e) Independence Day -- July 4
  - (f) Pioneer Day -- July 24
  - (g) Labor Day -- first Monday of September
  - (h) Columbus Day -- second Monday of October
  - (i) Veterans' Day -- November 11
  - (j) Thanksgiving Day -- fourth Thursday of November
  - (k) Christmas Day -- December 25
  - (l) Any other day designated as a legal holiday by the Governor.
- (2) If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.
- (3) If an employee is required to work on an observed holiday, the employee shall receive appropriate holiday leave, or shall accrue excess hours.
- (4) The following employees are eligible to receive holiday leave:
- (a) A full-time employee shall accrue eight hours of paid holiday leave on holidays.
  - (b) A part-time career service employee and a partner in a shared position

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who normally works 40 hours or more per pay period shall receive holiday leave in proportion to the hours paid in the pay period in which the holiday falls.

- (c) An employee working flex time, as defined in Section R477-8-2, shall receive a maximum of 88 hours of holiday leave in each calendar year. If the holiday falls on a regularly scheduled day off, a flex time employee shall receive an equivalent workday off, not to exceed eight hours, or shall accrue excess hours.
- (5) An employee receives holiday leave in proportion to the number of hours paid during the pay period in which the holiday falls.
  - (a) A new hire shall be in a paid status on or before the holiday in order to receive holiday leave.
  - (b) A separating employee shall be in a paid status on or after the holiday in order to receive holiday leave.
  - (c) An employee in a leave without pay status shall receive holiday leave in proportion to the time paid in the pay period in which the holiday falls.

### R477-7-3. Annual Leave.

- (1) An employee eligible for annual leave shall accrue leave based on the following years of state service:
  - (a) less than 5 years -- four hours per pay period;
  - (b) at least 5 and less than 10 years -- five hours per pay period;
  - (c) at least 10 and less than 20 years -- six hours per pay period;
  - (d) 20 years or more -- seven hours per pay period.
- (2) The accrual rate for an employee rehired to a position which receives leave benefits shall be based on all state employment in which the employee was eligible to accrue leave.
- (3) The first eight hours of annual leave used by an employee in the calendar leave year shall be the employee's personal preference day.
- (4) Agency management shall allow every employee the option to use annual leave each year for at least the amount accrued in the year.
- (5) Unused accrued annual leave time in excess of 320 hours shall be forfeited during year end processing for each calendar year.

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- (6) The maximum annual leave accrual rate shall be granted to a certain employee under the following conditions:
  - (a) an employee described in Section 67-22-2, an employee in schedule AB, and agency deputy directors and division directors appointed to career service exempt positions.
  - (b) an employee who is schedule A, FLSA exempt and who has a direct reporting relationship to an elected official, executive director, deputy director, commissioner or board.
  - (c) The maximum accrual rate shall be effective from the day the employee is appointed through the duration of the appointment. Employees in these positions on July 1, 2003, shall have the leave accrual rate adjusted prospectively.
  - (d) The employee may not be eligible for any transfer **Error! Reference source not found.** of leave from other jurisdictions.
  - (e) Other provisions of leave shall apply under Section R477-7-1.

### R477-7-4. Sick Leave.

- (1) An employee shall accrue sick leave with pay in proportion to the time paid each pay period, not to exceed four hours. Sick leave shall accrue without limit.
- (2) Sick leave shall be granted for:
  - (a) preventive health and dental care, maternity, paternity, and adoption care, or for absence from duty because of illness, injury or temporary disability of the employee, a spouse, children or parents living in the employee's home; or
  - (b) FMLA purposes under Section R477-7-15.
- (3) Agency management may grant exceptions for other unique medical situations.
- (4) An employee shall arrange for a telephone report to supervisors at the beginning of the scheduled workday the employee is absent due to illness or injury. Management may require reports for serious illnesses or injuries.
- (5) Any application for a grant of sick leave to cover an absence that exceeds four successive working days shall be supported by administratively acceptable evidence. If there is reason to believe that an employee is abusing sick leave, a supervisor may require an employee to produce evidence regardless of the number of sick hours used.
- (6) After filing a resignation notice, an employee must support a sick leave request

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with a health care provider's certificate.

- (7) Unless retiring, an employee separating from state employment shall forfeit any unused sick leave without compensation.
  - (a) An employee rehired within one year of separation shall have forfeited sick leave reinstated as Program II sick leave.
  - (b) An employee who retires from state service and is rehired may not reinstate forfeited sick leave.

### **R477-7-5. Converted Sick Leave.**

An employee may convert sick leave hours to converted sick leave after the end of the last pay period of the calendar year in which the employee is eligible.

- (1)
  - (a) Converted sick leave hours accrued prior to January 1, 2006 shall be Program I converted sick leave hours.
  - (b) Converted sick leave hours accrued after January 1, 2006 shall be Program II converted sick leave hours.
- (2) To be eligible, an employee must have accrued a total of 144 hours or more of sick leave in Program I and Program II combined at the beginning of the first pay period of the calendar year.
  - (a) At the end of the last pay period of a calendar year in which an employee is eligible, all unused sick leave hours accrued that year in excess of 64 shall be converted to Program II converted sick leave.
  - (b) The maximum hours of converted sick leave an employee may accrue in Program I and Program II combined is 320.
  - (c) If the employee has the maximum accrued in converted sick leave, these hours will be added to the annual leave account balance.
  - (d) In order to prevent or reverse the conversion, an employee shall:
    - (i) notify agency management no later than the last day of the last pay period of the calendar year in order to prevent the conversion; or
    - (ii) notify agency management no later than the end of February in order to reverse the conversion.
  - (e) Upon separation, an eligible employee may convert any unused sick leave hours accrued in the current calendar leave year in excess of 64 to converted sick leave hours in Program II.

## Appendix A

### Annual, Holiday, and Sick Leave Accrual Table

The following tables provide leave and position schedule information.

Annual, holiday, and sick leave shall be accrued at a pro-rated basis in whole hour increments. Annual leave is accrued based on the total number of hours paid in the pay period. Sick leave accrues based on the number of hours paid in the pay period and accrues at a maximum of four (4) hours per pay period for all eligible employees regardless of their years of service. Holiday leave is accrued according to the number of hours paid in the pay period, excluding the holiday hours, and the number of holidays within that pay period. Example: A less than full-time employee is paid 40 hours in the pay period, excluding the holiday hours. He/she will accrue 6 hours if there is one holiday in the pay period. If two holidays fall in the pay period, that same employee will accrue 7 hours for each holiday. Holiday leave is accrued at a maximum of 10 hours per holiday.

Annual leave is accrued based on eligible years of state service.

Less than 5 years	=	4 hours accrual per pay period
At least 5 and less than 10 years	=	5 hours accrual per pay period
At least 10 and less than 20 years	=	6 hours accrual per pay period
20 years or more	=	7 hours accrual per pay period

**Table A1**

Total Hours Paid in the Pay Period	Annual Leave Accrual				Sick Leave Accrual
	4 Hours	5 Hours	6 Hours	7 Hours	
4	0	0	0	0	0
8	0	1	1	1	0
12	1	1	1	1	1
16	1	1	1	1	1
20	1	1	2	2	1
24	1	2	2	2	1
28	1	2	2	2	1
32	2	2	2	3	2
36	2	2	3	3	2
40	2	3	3	4	2
44	2	3	3	4	2
48	2	3	4	4	2
52	3	3	4	5	3
56	3	4	4	5	3
60	3	4	5	5	3
64	3	4	5	6	3
68	3	4	5	6	3
72	4	5	5	6	4
76	4	5	6	7	4
80	4	5	6	7	4

**Table A2**

Holiday Accrual		
Hours Paid in the Pay Period (Excluding Holiday Hours)	1 Per Pay Period	2 Per Pay Period
5	1	1
10	1	2
15	2	3
20	3	3
25	4	4
30	4	5
35	5	6
40	6	7
45	6	8
50	7	8
55	8	9
60	9	10
65	9	10
70	10	10
75	10	10
80	10	10

**Table A3**

**Annual and Sick Leave Accrual Table for Employees Working 106 Hour Pay  
Periods**

Regular Hours Worked Per Pay Period	Annual Leave Accrual				Sick Leave Accrual
	5.6 Hours	7 Hours	8.4 Hours	9.8 Hours	
10	.5	.75	.75	1	.5
21	1.0	1.5	1.75	2	1.0
31	1.75	2.0	2.5	3	1.75
42	2.25	2.75	3.25	4	2.25
53	2.75	3.5	4.25	5	2.75
63	3.25	4.25	5.0	5.75	3.25
74	4.0	5.0	5.75	6.75	4.0
84	4.5	5.5	6.75	7.75	4.5
95	5.0	6.25	7.5	8.75	5.0
106	5.5	7.0	8.5	9.75	5.5
Annual Hours	145.6	182.0	218.4	254.8	